

Message Text

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PAGE 01 STATE 171370

11

ORIGIN OPIC-06

INFO OCT-01 AF-08 ISO-00 EB-07 COME-00 AID-05 TRSE-00

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DRAFTED BY OPIC/ID/MEA:CHMIDDLETON:JMB

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OPIC/GC,SFRANKLIN

EB/IFD/OIA:DHSTEBBING

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R 100255Z JUL 76

FM SECSTATE WASHDC

TO AMEMBASSY LAGOS

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E.O. 11652:N/A

TAGS:EINV

SUBJECT: FMG DECISION TO TERMINATE OPIC AGREEMENT

REF: (A) LAGOS 7340; (B) STATE 007581

1. APPRECIATE EMBASSY'S TIMELY REPORTING IN REFTEL (A) OF FMG INTENT TO TERMINATE OPIC BILATERAL AGREEMENT AND EMBASSY'S ARGUMENTS ON OPIC'S BEHALF TO FMG. OPIC WOULD SERIOUSLY REGRET TERMINATION OF NIGERIA AGREEMENT GIVEN EXTENSIVE TIME AND EFFORT REQUIRED TO NEGOTIATE IT AND MORE IMPORTANTLY GIVEN OUR OPINION THAT NIGERIA IS A COUNTRY IN WHICH OPIC CAN PLAY A PARTICULARLY USEFUL ROLE IN PROMOTING U.S. INVESTMENT. IT IS THEREFORE OPIC'S POSITION THAT EVERY EFFORT SHOULD BE MADE TO PRESERVE THE AGREEMENT

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PAGE 02 STATE 171370

EVEN IF AS A FALBACK POSITION THE OPIC PROGRAM MUST BE

PUT IN MOTHBALLS FOR THE FORESEEABLE FUTURE. A MOTHBALLING OPERATION WOULD AT LEAST ALLOW A SPEEDY REACTIVATION OF THE PROGRAM IF AND WHEN THE FMG CHANGES ITS MIND. AS A PRACTICAL MATTER A MOTHBALLING OPERATION CAN BE SIMPLY EFFECTUATED BY THE FMG JUST NOT APPROVING THE ISSUANCE OF OPIC INSURANCE FOR ANY PROJECTS. OPIC'S POSTURE IN TURN WOULD BE TO KEEP NIGERIA ON OUR APPROVED LIST OF COUNTRIES, BUT TO INFORM INVESTORS THAT OUR PROGRAM IS NOT CURRENTLY ACTIVE THERE DUE TO THE WISHES OF THE FMG. IN THE EVENT THE FMG TERMINATES THE AGREEMENT, OPIC WOULD HAVE TO REMOVE NIGERIA FROM OPIC'S APPROVED COUNTRY LIST.

2. OPIC'S POSTURE TOWARD MAINTENANCE OF THE NIGERIA AGREEMENT IS NOT MERELY DEFENSIVE. WE BELIEVE WE CAN MAKE CONCRETE ARGUMENTS ABOUT HOW NIGERIA WOULD BENEFIT FROM A DECISION TO COOPERATE ACTIVELY WITH OPIC BY ISSUING FGA'S AND FROM OTHERWISE ENCOURAGING THE INITIATIVES OPIC IS WILLING TO MAKE ON NIGERIA'S BEHALF. THERE ARE MANY EXAMPLES AROUND THE WORLD WHERE OPIC HAS BEEN THE INITIAL PROJECT PROMOTER, WHERE PROJECTS ONLY WENT FORWARD DUE TO THE AVAILABILITY OF OPIC INSURANCE OR FINANCE, AND WHERE PROJECTS COLLAPSED DUE TO THE LACK OF OPIC INSURANCE OR FINANCE.

3. EVEN THOUGH EMBASSY DOUBTS FMG DECISION TO TERMINATE OPIC AGREEMENT CAN BE REVERSED, OPIC WOULD LIKE, SUBJECT TO EMBASSY CONCURRENCE, TO SEND AN OPIC OFFICER, TO LAGOS TO SPEAK ON OPIC'S BEHALF. HOWEVER, IF EMBASSY DEEMS IT MORE APPROPRIATE, OPIC COULD WRITE A BRIEF ON ITS ADVANTAGES FOR NIGERIA FOR DELIVERY BY THE EMBASSY TO THE FMG. THIS BRIEF WOULD BE TAILORED SPECIFICALLY TO THE NIGERIAN ENVIRONMENT. SUCH A BRIEF, FOR EXAMPLE, WOULD INCLUDE THE ARGUMENTS IN REFTEL (B) WHICH ANSWER THE FMG CONTENTION THAT THE ICSID CONVENTION SUPERCEDES THE OPIC AGREEMENT. PLEASE ADVISE WHICH APPROACH EMBASSY DEEMS MORE APPROPRIATE.

4. AMBASSADOR EASUM HAS CONCURRED IN THIS TELEGRAM. KISSINGER

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